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IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

REPORT ON THE TECHNICAL ASSISTANCE MISSION TO THE DOMINICAN REPUBLIC OF THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

(19-26 September 1997)

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Introduction

1. The Committee on Economic, Social and Cultural Rights, established by the Economic and Social Council to monitor the implementation by States parties of the International Covenant on Economic, Social and Cultural Rights, considered the initial report submitted by the Dominican Republic (E/1990/5/Add.4) at its fifth session, in 1990.

2. In its concluding observations (E/1991/23, paras. 246-250), the Committee noted with satisfaction that the Government of the Dominican Republic was prepared to establish a dialogue with the Committee. However, it considered that information provided by the Government with respect to a number of issues was insufficient. Members of the Committee specifically stated their deep concern over the situation of Haitian workers in the Dominican Republic and the fate of nearly 15,000 families evicted from their homes and living in deplorable conditions. In relation to the latter, the Committee found that the conditions in which the expulsions had taken place were sufficiently serious for it to be considered that the guarantees in article 11 of the Covenant had not been respected. Consequently, the Committee requested additional information on these two issues which called for further study.

3. At its sixth session, in 1991, the Committee noted that its request for additional information had not yet elicited a response from the Government. It also noted additional information from several sources, including that contained in document E/C.12/1991/NGO/1, which gave rise to serious concern on the part of the Committee. Thus, the Committee requested that the State party suspend any action which does not fully conform to the provisions of the Covenant and to provide additional information as a matter of urgency.

4. In that connection, the Committee emphasized that the Government of the Dominican Republic might wish to avail itself of the advisory services available from the Centre for Human Rights to assist it in relation to efforts to promote full compliance with the Covenant in respect of the large-scale evictions referred to in the Committee's reports.

5. At the same session, the Committee adopted a draft decision in which it offered, in pursuance of article 23 of the Covenant, to send one or two of its members to continue its dialogue with the Government in relation to the matters identified and to promote full compliance with the Covenant in respect of the large-scale evictions referred to in the Committee's reports and recommended that the decision be adopted by the Economic and Social Council (E/1992/23, chap. I, draft decision III).

6. The Economic and Social Council, in its decision 1992/261 of 20 July 1992, approved the Committee's action, subject to the acceptance of the Committee's offer by the State party (see annex III).

7. The Secretary-General of the United Nations, in a note verbale dated 14 October 1992, brought to the attention of the Government of the Dominican Republic the above decision of the Economic and Social Council.

8. At its seventh session in 1992, the Committee, having noted that the Government of the Dominican Republic had responded neither to its request for the submission of additional information nor to its offer, subsequently endorsed by the Economic and Social Council in its decision 1992/261, adopted the following decision:

> The Committee notes again that the additional information referred to in its report on the sixth session, if accurate, gives rise to serious concern on the part of the Committee. The Committee thus repeats its request to the State party to avoid any actions which are not clearly in conformity with the provisions of the Covenant and also repeats its request for the Government to provide additional information to it as a matter of urgency (E/1993/22, para. 201).

9. At the same session, the Committee adopted draft decision II (see annex II) in which it recommended to the Council to renew its endorsement of the Committee's decision taken at its seventh session (E/1993/22, para. 201).

10. The Secretary-General of the United Nations, in a note verbale dated 15 February 1993, brought to the attention of the Government of the Dominican Republic the above decision of the Committee.

11. The Economic and Social Council, in its decision 1993/295 of 28 July 1993, renewed its endorsement of the decision of the Committee (see annex III).

12. The Secretary-General of the United Nations, in a note verbale dated 20 September 1993, brought to the attention of the Government of the Dominican Republic the above decision of the Economic and Social Council and suggested that the Government provide relevant information to the Committee at its ninth session (22 November-10 December 1993).

13. The Committee, at its ninth session in 1993, discussed the situation in relation to requests submitted by it to the Dominican Republic to give consideration to inviting a representative of the Committee to visit that country in order to clarify certain matters which had arisen during the dialogue between the Committee and the State party. It noted that the Economic and Social Council had endorsed the request of the Committee in specific decisions. It also noted with regret that no response had been received from the State party. The Committee therefore decided to reaffirm the importance it attached to a continuing dialogue with the State party and to request its Chairperson to invite a representative of the Government to attend the tenth session of the Committee with a view to providing further information on the matters identified by the Committee. For this purpose, the Committee agreed to schedule consideration of the situation in the Dominican Republic for its tenth session, to enable it to adopt concluding observations (E/1994/23, para. 373).

14. The Chairperson of the Committee, in a letter dated 17 December 1993, informed the Government of the Dominican Republic of the above decision of the Committee.

15. The Government of the Dominican Republic, in its note verbale dated 27 July 1993, but received by the Committee on 26 January 1994, provided additional information with respect to the forced evictions and indicated that:

> "... The Government of the Dominican Republic points out that there is no question of the International Covenant on Economic, Social and Cultural Rights being violated, as the people evicted have, for the most part, been moved from poorly equipped slum housing to comfortable accommodation, as a visit to the housing developments in areas where such accommodation has been built, near the Columbus lighthouse, would show.
>
> "The Government of the Dominican Republic welcomes the offer, made by the Committee on Economic, Social and Cultural Rights, and supported by the Economic and Social Council, to send one or two of its members to advise the Government and would like to inform the Secretary-General that, for the time being, the Government feels that such a generous offer is not needed as there are no large-scale evictions amounting to a violation of the International Covenant."

16. At its tenth session, held in May 1994, the Committee considered the request by the Government of the Dominican Republic to postpone consideration of the situation in that country until its next session and, at its 7th meeting, on 5 May 1994, adopted the decision which stated, inter alia, that:

> "In view of the existence of exceptional circumstances in the case, the Committee agrees to a request from the representative of the Dominican Republic to postpone until its eleventh session consideration of the matters arising out of the Committee's request to the Government for the provision of additional information ...
>
> "The Committee draws the attention of the State party to the information submitted to it by a non-governmental organization during the tenth session and made available to the Government of the Dominican Republic, and invites the Government of the Dominican Republic to address the matters identified in that document in its presentation to the eleventh session of the Committee.
>
> "The Committee urges the Government to take all appropriate measures in the meantime to ensure full respect for all economic, social and cultural rights, in particular in relation to the right to housing." (E/1995/22, paras. 206-210.)

17. At its eleventh session, in November-December 1994, the Committee examined matters arising out of the requests to the Government of the Dominican Republic for the provision of additional information, in particular relating to the right to adequate housing. The Committee underlined that it had devoted ongoing attention to these issues since its fifth session (1990), with particular concern about alleged instances of large-scale forced evictions. At its tenth session, the Committee urged the Government to take all appropriate measures in the meantime to ensure full respect for all

economic, social and cultural rights, in particular in relation to the right to housing. At its 55th meeting on 8 December 1994, the Committee adopted the concluding observations (E/C.12/1994/15; see annex II).

18. The Committee felt that it could make a more comprehensive assessment of the problem of evictions if the Government of the Dominican Republic were to invite one or two Committee members to make an in situ visit. The Committee therefore renewed its request to the Government to send a two-person mission to the country and recalled that this request had already been endorsed clearly on two occasions by the Economic and Social Council.

19. On 28 November 1994, in accordance with the schedule for submission of reports and Committee's requests, the Government of the Dominican Republic submitted its second periodic report (E/1990/6/Add.7), which was initially scheduled for consideration by the Committee at its fourteenth session in May 1996. However, in compliance with the request made by the Government, the Committee decided to postpone consideration to the fifteenth session, which was held from 18 November to 6 December 1996.

20. The Committee considered the second periodic report of the Dominican Republic at its 29th and 30th meetings, on 19 November 1996 (E/C.12/1996/SR.29 and 30). In its concluding observations (E/C.12/1/Add.6) it expressed, inter alia, its appreciation to the State party for its report, but noted with regret that the Government of the State party had provided neither written replies to the Committee's list of issues, nor sent an expert delegation to present its report as it had undertaken to do at the Committee's fourteenth session in May 1996, when requesting the postponement of the consideration of its report to the fifteenth session (see annex II).

21. The Committee invited the State party to confirm publicly its commitment to implement its binding human rights treaty obligations. It appealed to the Government of the State party to honour its obligations under the International Covenant on Economic, Social and Cultural Rights, particularly through maintaining proper direct and constructive dialogue with the Committee as called for in the Covenant. The Committee finally proposed to adopt its concluding observations in relation to the State party at its sixteenth session. For that reason the Committee decided that the concluding observations, adopted at its fifteenth session, would be considered "preliminary", pending further consideration of the report based on a dialogue with representative(s) of the State party at its sixteenth session.

22. The Committee strongly recommended that the specific information it had requested be presented to the Committee at its sixteenth session by an expert delegation.

23. At its sixteenth session, on 28 April 1997, the Committee was informed by a note verbale dated 23 April 1997 from the Permanent Representative of the Dominican Republic to the United Nations Office at Geneva that the Government of the Dominican Republic had accepted the Committee's offer to send two of its members to visit the country and pursue its dialogue with the Government in relation to the matters identified by the Committee at its fifth, seventh, tenth, eleventh and fifteenth sessions. Subsequently, the Secretary of State for Foreign Affairs of the Dominican Republic, by a note verbale

dated 25 April 1997, confirmed the invitation to the Committee to visit the country to observe in situ the situation of economic, social and cultural rights.

24. The Committee expressed its strong appreciation to the Government of the Dominican Republic for its willingness to cooperate.

25. Following its discussions relating to the organization of the mission the Committee agreed that:

(a) It would be represented by two of its members - Mr. Philippe Texier and Mr. Javier Wimer Zambrano - and assisted during the mission by one staff member of the OHCHR;

(b) The mission should take place preferably in September and in any event before the Committee's seventeenth session (November 1997);

(c) The mission would focus primarily on matters relating to the implementation of the right to housing (article 11 (1) of the Covenant), and would also take account of the other issues identified by the Committee in its preliminary concluding observations, adopted at its fifteenth session in December 1996, on the second periodic report of the Dominican Republic;

(d) The mission would undertake on-site visits and would arrange meetings with the relevant government officials as well as with individuals and groups from all appropriate sectors of civil society;

(e) Mr. Texier would be responsible for the preparation, on the basis of agreement with Mr. Wimer Zambrano, of a written report and its submission to the Committee at its seventeenth session, to be held from 17 November to 5 December 1997. That report would be considered in conjunction with the second periodic report of the Dominican Republic;

(f) The draft report would be considered by the Committee in private session and subsequently adopted for public release;

(g) Significant assistance would be required from the Secretariat in the preparation of the mission, particularly in obtaining and analysing relevant information. The Secretariat should seek inputs from all relevant sources and should specifically request any pertinent reports or other information from United Nations Development Programme, the World Bank, United Nations Centre for Human Settlements (Habitat), the International Labour Organization and other such agencies as well as from non-governmental organizations.

26. In preparing the mission, information was sought and received from the following sources:

(a) United Nations: Economic and Social Commission for Latin America and the Caribbean (ECLAC), Office of the United Nations High Commissioner for Refugees (UNHCR), United Nations Centre for Human Settlements (Habitat), United Nations Children's Fund (UNICEF) and United Nations Development Programme (UNDP);

(b) Specialized agencies: ILO, IMF, World Bank;

(c) Regional organizations: Inter-American Commission on Human Rights, Inter-American Development Bank;

(d) Non-governmental organizations: Comisión Americana de Juristas, Habitat International Coalition, Ciudad Alternativa, Comité para la Defensa de los Derechos Barriales (COPADEBA), Centro Dominicano de Asesoría e Investigaciones Legales (CEDAIL), Centro de Orientación de Investigacion Integral (COIN), Comisión de Derechos Humanos Dominicano, Comité Dominicano de Derechos Humanos, Confederación Unitaria de Trabajadores, Federación Nacional de Trabajadores Azucareros, Sindicato de Picadores de Cana (SIPICAIBA), Movimiento de Mujeres Dominico-Haitianas (MUHDA).

27. The mission took place from 19 to 27 April 1997. The Government of the Dominican Republic provided the mission with all necessary information, facilitated access to the areas of interest for the mission, helped to organize various meetings with the representatives of regional and municipal authorities, non-governmental organizations, the Church and academic institutions both in Santo Domingo and Barahona, and cooperated with the mission in a constructive and open manner, which was highly appreciated by the members of the mission.

28. A detailed schedule of the mission's meetings and activities is provided in annex I, concluding observations and decisions adopted by the Committee in annex II, and decisions adopted by the Economic and Social Council in annex III.

I. REPORT OF THE MISSION

A. Background

29. The Dominican Republic has a surface area of 48,442 km^2 and, in 1996, its population was 8,760,000, with 35.1 per cent of the inhabitants aged under 15 years and a density of 166 inhabitants per km^2. The birth rate is 26 per 1,000 and infant mortality is still quite high (40.4 per 1,000).

30. According to Inter-American Development Bank data, population density puts heavy pressure on land use and natural resources. Although the State controls 48 per cent of agricultural land, it accounts for only 17 per cent of the value of sectoral production. The process of establishing land tenure continues to be very inefficient in an economy where the private sector plays an increasingly important role. Consequently, the documentation legalizing land ownership is not reliable and the problem of land takeovers is endemic.

31. It is estimated that about 40 per cent of the territory of the capital, Santo Domingo, is illegally occupied. This problem adds to the climate of legal uncertainty for owners and investors and is a serious obstacle to economic development. The lack of property titles has a negative impact on agricultural productivity and limits private investment in urban infrastructure and housing, particularly because municipalities do not have proper land registers.

32. Four types of restriction should be mentioned:

(a) With regard to the institutional framework, the land court depends on the budget which the Executive decides to grant it and which the Congress approves. The budget is chronically inadequate, although the court provides for more than enough revenue for its operation. The law and procedures in force also create red tape in a very centralized and often inefficient system;

(b) Infrastructure and equipment are largely inadequate because of budget restrictions that have existed for decades. There is no modern data-processing system, archives are disorganized and many documents have disappeared or been destroyed; none of this makes it easier to obtain property titles;

(c) There are serious restrictions in terms of human resources. Because wages are too low, many officials do not have proper training, and this often leads to misconduct or cheating. The lack of any direct law enforcement power in the land court weakens the disciplinary system and makes for impunity;

(d) Land survey technology is inadequate. The law in force, which was last updated in 1957, is obsolete and does not facilitate land boundary demarcation. Cadastral survey anachronisms prevent the process from being transparent and encourage influence peddling. The autonomy and independence of the judiciary increased as a result of the 1994 reform, but there is still a great deal to be done to set up a land tenure system and an institutional, legal and structural reform programme.

B. Housing situation

33. At the National Forum for a New Policy for the Housing Sector and Human Settlements in the Dominican Republic, organized jointly by the National Housing Institute (INVI) and the United Nations Development Programme (UNDP) held on 30 October and 1 November 1996, the housing situation in the Dominican Republic was reviewed and a programme was drawn up in line with the recommendations by the United Nations Conference on Human Settlements (Habitat II) (Istanbul, June 1996). The findings by the participants (ministers, members of INVI, international officials, experts and non-governmental organizations (NGOs)) are described below.

34. The efforts made by successive Governments in the past 25 years to improve the housing situation have been insufficient; the housing and human settlements problem is growing worse each year and is a moving example of the backwardness and poverty of much of the Dominican population.

35. Thus, 46 per cent of the 1,400,000 existing dwellings are substandard either because they lack essential basic services or because they are quite simply unusable and dangerous for the persons who live in them; 11 per cent of existing dwellings fall into the latter category. This combination of shortcomings in terms of quality and unmet housing needs has created a deficit which, by the most conservative estimates, stands at over 500,000 dwellings and may be as high as 800,000.

36. Another component of the problem is the result of high building costs, high interest rates on financing and the low purchasing power of members of the middle and lower classes, who have literally remained outside the market because of current private housing supply conditions.

37. Account must also be taken of the lack of institutional effectiveness in the housing sector, which is reflected in the variety and overlayering of governmental agencies and bodies dealing with planning and housing matters. The consequence is the lack of an overall housing policy to define an order of priorities within a national development policy.

38. As a result of this particularly alarming finding, of which it must be stressed that the Government and specialized agencies are aware, measures were announced at the 1996 Forum and are evidently intended to be of a medium-term and long-term nature. They include:

(a) Encouraging the establishment of "urban master plans" to regulate urban development, establish suitable population densities, use urban land in a rational way, distribute activities, service and equipment infrastructures and environmental protection policies and pay particular attention to the precariousness of the housing situation in overpopulated and overcrowded areas;

(b) Considerably reducing the urban and rural housing deficit, in terms of both quality and of quantity, by giving priority to productive sectors and the lowest income population groups ("building for the poorest");

(c) Immediately defining, with the cooperation of the private sector, mechanisms to guarantee that enough dwellings are built each year to meet the needs of medium- and low-income sectors by earmarking as many resources as possible for this purpose, with the government budget being used specifically to help poverty-stricken groups by means of low-cost housing solutions;

(d) Completing dwellings that are under construction by determining a correctly evaluated order of priorities incorporating the private sector and the savings and loan system;

(e) Creating incentives for agencies in the sector to reduce building costs and set up loan programmes for purchases of materials for low-income families by creating direct negotiation machinery between the Government and the private sector;

(f) Implementing special unconventional housing programmes to meet the needs of a larger number of low-income families by designing projects to give property titles to tenants and squatters of unfinished dwellings or dwellings under construction, mutual assistance and self-help projects, housing cooperatives and, in all cases, the promotion of organized participation by neighbourhood and rural communities;

(g) Establishing a special "savings" fund for the construction of dwellings for workers and employees which would be financed by contributions by employers, employees or workers and the Government and set up by law. It would help create a large pool of tripartite housing projects;

(h) Promoting the establishment of an urban cadastral survey and beginning, in cooperation with mayors' offices and NGOs, the process of identifying and equipping land belonging to the State and municipalities for use as decent human settlements, particularly in rural areas, where programmes would be established to promote some concentration of the scattered peasant population in and around productive centres;

(i) In the context of government reform and modernization, bringing about the institutionalization of the official sector by formulating policies and standards to govern the construction of dwellings; in the immediate future, the plan is that the agency managing the housing policy should be INVI, which will coordinate government work and initiatives. In the medium term, the plan is to establish the Ministry of Housing and Human Settlements as a higher-ranking State body to deal with the challenges of building more decent housing for everyone.

39. Specifically, INVI considers itself necessary and intends to offer 100,000 housing solutions in four years and to add a large official and unofficial private sector contribution as part of the strategy for the gradual reduction of the housing deficit.

C. The question of evictions from slums and relocation

40. It should be recalled that, during the consideration of the Dominican Republic's preceding reports at the sixth session (1991) and at the fifteenth session (1996), the Committee discussed large-scale evictions which took place in the past, especially the largest ones: 30,000 families residing in the Northern Zone of the capital and threatened with forced eviction under Decrees Nos. 358-91, 359-91 and 76-94; several thousand families evicted for the construction of the Columbus lighthouse; evictions in several provincial cities, such as Santiago, San Juan de la Maguana, Boca Chica and El Seybo. It also discussed the particularly difficult living conditions that families in slums (Barrancones) have had to endure since cyclone David.

41. It should be noted that there has been a radical change by the current Government in its approach to the housing problem; not only does it not deny that the housing problem did and does give rise to serious problems, but it also shows clear-cut determination to solve them.

42. The representatives of the Government at the highest level, particularly the President of the Republic and several ministers, state that the Government's main job is to satisfy the people's needs and to protect human rights. In the specific area of evictions, the Government solemnly affirmed on several occasions that it was determined not to carry out any evictions and to establish a policy for the resettlement of persons who were displaced or evicted. So far, there have been no evictions by public bodies.

43. The first very positive measure was the repeal of Decree No. 358-91, which provided for the militarization of La Ciénaga and Los Guandules on the banks of the Ozama river in central Santo Domingo, and its replacement by Decree No. 443-96, which removes the military, allows the population freedom of movement and provides for a programme to improve the two neighbourhoods.

44. The Government also signed an agreement with 209 evicted families who occupied three churches for one year and a half to demand that the promised dwellings should be assigned to them. To date, 81 of the 169 families which were to be housed in three different sectors have been relocated to Guaricano.

45. The President of the Republic also responded to the request of 681 families living in Los Alcarrizos slums since 1979 by entrusting responsibility for a housing programme for those families to the Public Works Coordination Office. Some 50 families living in the immediate vicinity of the Duarte Bridge were resettled in housing projects.

46. With regard to the question of the guarantee of the regularization of land ownership and the improvement of the living conditions of over 500,000 persons residing in the Central Zone of the capital, regularization projects are under consideration with a view to obtaining property titles. A bill along these lines has been drafted, but it is still pending in the Senate.

47. Consultation machinery has been established by the Government in the process of the formulation of national plans for compliance with international undertakings. In this connection, particular attention is drawn to the project which is under way to establish the office of an ombudsman and which is supported by UNDP and several citizens' organizations.

48. The National Urban Affairs Council (CONAU), INVI and UNDP signed an agreement to give effect to Decree No. 76-94 ("Resure"), which provides for the implementation of an inter-agency coordination plan for the development of the Central-North Zone of the capital.

49. The Government has also adopted a decree establishing the Presidential Neighbourhood Development Commission with a view to strengthening coordination machinery between the State and neighbourhood and community organizations.

50. The Government announced the start of a housing programme which is designed to diversify possible solutions by giving priority to a line of credit and assistance for the most underprivileged sectors and reserving low-income housing for sectors with no ability to pay.

51. The Government has also adopted an Act authorizing a 4 per cent tax rebate for municipalities and, through INVI, it has taken over the INVIVIENDA projects in Santo Domingo and Santiago, thus complying with the agreement reached by the State with thousands of buyers since the 1980s.

52. Two examples will be given to illustrate the progress made and the problems that remain: the situation in La Ciénaga and Los Guandules; and that of the families living in Los Alcarrizos until they can be relocated.

1. La Ciénaga and Los Guandules

53. In 1991, Expulsion Decree No. 358-91 militarized this enormous area located in the middle of Santo Domingo on the banks of the Ozama river, where

most of the city's sewage and industrial waste are dumped. About 8,000 families live in these two neighbourhoods in often very difficult conditions, as the Committee was informed several times in the past.

54. On 17 September 1996, following a mass visit to the Presidential Palace by representatives of these neighbourhoods, the President of the Republic repealed the Decree; according to what many inhabitants we met had to say, a process of ongoing improvements immediately got under way through the combined efforts of families and the Government.

55. During an on-site visit, the neighbourhood representatives gave us a lengthy description of the process and then took us on a detailed visit. With the technical assistance of the "Ciudad Alternativa" Association, the community, meeting as a group of coordinated organizations, drew up an urban development plan for La Ciénaga and Los Guandules known as "Cigua Plan". It has the support of the Office of the Master Plan of the City of Santo Domingo, the Mayor's Office of the National District and CONAU. It is comprehensive, deals, for example, with housing, health, education, recreation, vocational training, food marketing and the improvement of living conditions and tries to find specific solutions to all these problems.

56. Cigua Plan was officially turned over to the Government and the Mayor of the National District in September 1997. It could serve as a model for other communities and, according to its authors, as input for the preparation of the 1998 national budget. It sets short-term (1998), medium-term (2000-2003) and long-term (2003-2006) objectives.

57. The Plan's general objective is to raise the standard of living of the inhabitants of La Ciénaga and Los Guandules, while its specific objectives are to improve physical conditions and the environment in neighbourhoods, as well as the economic, social and cultural conditions of the population, and to promote participatory management processes with the assistance of neighbourhood organizations and support agencies (NGOs, international organizations, academic institutions, etc.).

58. Further details of Cigua Plan cannot be given in this report, but it must be said that, so far, it has been an excellent example of the work that dynamic communities can do with the assistance of the Government, mayors' offices and civil society. The task is enormous, but the start that has been made is very encouraging.

2. Los Alcarrizos

59. After cyclone David destroyed a large number of houses in 1979, 681 families were transferred to this neighbourhood, where they have been living for 18 years in deplorable conditions, hoping for a decent relocation solution, which was promised to them at the time of their transfer.

60. The mission went to Los Alcarrizos and saw how totally inadequate the site is. The ground is sandy and washes off during the rainy season, ending up under the huts, which are made of brick, metal sheeting, pieces of wood or cardboard and earth. There is no sewerage and waste water runs freely on the ground. Drinking water points are far apart and water quality is very poor,

leading to serious health problems, particularly for children. There is no close-by health centre and no school; sources of work are also far away and most of the families living on the site are poverty stricken.

61. Earlier Governments promised that the community would be resettled in dignity and, a few dozen metres from the existing slum, built two buildings which are still not completed. When the mission visited them, construction had been suspended for over a month, thus creating anxiety for the members of the community. The solutions these buildings offer would be a great improvement over the current situation, but the apartments being built are quite small and basic.

62. The members of the community complain of having been duped by false promises, that one of the buildings is poorly cemented and unsafe and, in particular, that the number of apartments proposed will house only half of the disaster-stricken families. After 20 years of living and surviving in these miserable conditions, only 350 families will be relocated and 331 will continue their interminable wait.

D. Main housing problems at present

63. In view of the chronic housing deficit, three problems are of particular concern:

(a) The inadequacy of the resources allocated to this sector for construction, as well as for the repair of slum dwellings and the relocation of disaster-stricken communities;

(b) The large number of housing and urban planning agencies and their lack of coordination;

(c) There is no ministry of housing which has an overall view of the problem.

64. Several agencies are working in the sector:

(a) INVI, an autonomous State agency set up in 1962, to provide decent housing. As its members admit, its work was not very successful in the past and it built 20,000 to 25,000 dwellings in 35 years. The current Government's policy is designed to breathe new life into this agency and make it the driving force behind housing policy, with government funding. Between 1986 and 1996, INVI almost ceased to exist, curiously because of its unbridled ambition; ad hoc "national property" offices were therefore set up directly within the Office of the President of the Republic (see below). The Director and officials of INVI nevertheless reaffirmed that they were determined not to carry out any evictions without relocation. "We have removed the word 'eviction' from the urban planning dictionary", the Director told us;

(b) CONAU, which deals with urban policies and is part of the Office of the President of the Republic. It plans, but does not implement;

(c) The Presidential Neighbourhood Development Commission, which was set up in June-July 1997 and whose main objective is to evaluate conditions in all Santo Domingo neighbourhoods;

(d) The Technical Secretariat of the Office of the President, which gives technical form to the undertakings entered into by the President of the Republic and implements projects. At present, it manages about 1,400 projects, intended as a matter of priority for underprivileged population groups. Its medium-term objective is to set up a ministry of human settlements and housing;

(e) The National Property Department, whose Director told us that, in the past, large-scale evictions were done by his Department and stated that this practice has now been abandoned in favour of a survey and possible relocations. The Department is setting up a property title office and improving the national land registry. It considers that it is able to obtain all the land needed to reduce the housing deficit, but its functions do not allow it to build.

65. A look at this list of agencies shows that they are poorly coordinated and mostly report to or are directly part of the Office of the President of the Republic. That is the third structural problem: too much decision-making power is concentrated in the Head of State.

66. As a result of the authoritarian tradition of earlier Governments, the public is of the opinion that the only person who can solve any individual or collective problem is the President of the Republic. He is therefore approached in every case. This state of mind has not yet been changed and the need to set up a ministry of housing for coordination purposes and to decentralize decisions therefore has to be met in the medium term.

67. In addition to structural problems, there are some issues that should be cleared up in the coming months:

(a) The navy has to be transferred to uninhabited or protected areas to prevent them from being invaded;

(b) During the 1996 pre-election period, large protected areas were occupied or invaded (La Ciénaga, Los Guandules) and, in some cases, sold back to families; it should be possible to solve this problem;

(c) Community participation in the formulation of Government projects is still low, but increasing; organizations in La Ciénaga and Los Guandules have proposed that the Government should establish an inter-agency coordination and follow-up committee for Government works, but, so far, no action has been taken on this proposal;

(d) The families awaiting relocation, including 128 of the 209 who occupied 3 churches for several months; 260 from Cristo Rey, one part living hand-to-mouth with relatives and the other having moved inland; the families living in Hoyo de la Zurza; the 681 families living in Los Alcarrizos, mentioned above; and 56 of the 106 families living under Duarte Bridge since 1979;

(e) Decree No. 155-94, which provides for the regularization of land ownership by families living in the Central-North Zone of Santo Domingo since 1955, has not been implemented. Its implementation depends largely on the negotiations with one family, which have apparently been taken over by CONAU;

(f) A bill for the regularization of land ownership in many neighbourhoods is still before the Senate, whose President seems to be opposed to its adoption, on the grounds that it would lead to large-scale land occupation. This situation has a considerable impact, since it affects about 500,000 persons;

(g) In the past year, evictions have continued to take place on private sector land, whereas the ownership of the land was not always clearly established. In this connection, the fact that there is no updated government land registry is to be deplored.

E. The situation of Haitian workers and their families

68. The immigration of labour from Haiti dates far back and has always given rise to many problems. The long open border between the Dominican Republic and Haiti means that hardly any serious patrolling can be done. State bodies and NGOs are practically incapable of giving specific figures on migratory flows and the number of Haitians in the Dominican Republic. The Director-General of Migration gives a figure of 500,000 to 600,000 Haitians in Dominican territory, only 5 per cent of whom have identity or other documents.

69. One of the major problems this population group faces is that its illegal status is constantly reproduced: the parents have no documents and the children have none either, precisely because the parents do not have any and it is practically impossible to obtain documents, either because the parents do not record births at the Civil Registry Office or because hospital or civil registry officials refuse to record them or to issue birth certificates. The reason given is that the parents do not have legal documents or that the temporary residence permit enables the authorities to regard them as foreigners in transit and, according to the Constitution, this means that the children cannot be regarded as Dominicans.

70. An immigration bill is apparently under review at the present time, although the mission was unable to obtain official confirmation. It would apparently eliminate the deportation procedure in force in the past and replace it by administrative expulsion offering more guarantees.

71. The question of the nationality of Haitian children, and even of children of Haitians born in the Dominican Republic, is still very much a matter of dispute for the reasons given above, but also because, in matters of nationality, the Dominican Republic applies *jus soli* and therefore does not recognize the entitlement of children born in Haiti to be Dominicans, but, curiously, it sometimes bases itself on the Haitian Constitution, which applies *jus sanguinis*, in saying that recognition of Dominican nationality for children born in the Dominican Republic would be contrary to the Constitution of Haiti.

72. This situation is particularly alarming because it denies all rights to children, men and women who have often been living in Dominican territory for years: they have no social security, health care or education, etc. They have no status as individuals.

Conditions in the sugar cane plantations (bateyes)

73. Living and working conditions in the bateyes are extremely difficult. The cane cutters are often subjected to abuses by migration and military authorities and children and women have no legal status.

74. It is the poverty of these population groups that is particularly alarming, however, as the mission was able to see during the visit to La Cuchilla batey, which is located in a remote part of the province of Barahona. The batey is very poor and much like an African village; it is composed of some huts on either side of a dirt path which serves as a main street and the only services available to the community are a nearby well which provides drinking water and a school, which is in fact a hut with one teacher. The only source of work is sugar cane cutting during the harvest period and some sporadic farm work during the rest of the year. The families are all of Haitian origin. There is no health centre, electricity, telephone or sewerage. The situation is one of total deprivation.

75. Since the time when the condition of these workers was close to slavery, it has, of course, improved slightly. It should be recalled that, in the not too distant past, batey workers were not paid in cash, but in coupons that they had to spend in the batey stores; they were not allowed to go out and received no recognition as workers.

76. Social leaders agree that their condition has improved somewhat with the change of Government, and the Haitian authorities say the same, but there continue to be various forms of social violence against Haitian workers, as well as their women and children, but also against Dominican workers who are or seem to be of Haitian origin.

77. Within the community of Haitian and Dominican workers who harvest the sugar cane, there is concern about plans to privatize the sector, despite the assurances of the Director of the National Sugar Council about his determination to take measures to make hiring more transparent, with six-month contracts and a minimum wage. At present, a cane cutter is paid 40 pesos per ton, plus a 2-peso bonus, i.e. a wage of about $100 per month. Housing is free, but the mission was able to see how precarious the dwellings are.

II. CONCLUSIONS AND RECOMMENDATIONS ADOPTED BY THE COMMITTEE

78. The mission would above all like to express its heartfelt thanks to the Government of the Dominican Republic for the conditions in which it prepared for the mission's arrival and visit. In a spirit of great openness, the government authorities received us at the highest level and opened all doors, both in the capital and in the provinces we wished to visit. The dialogue was always very constructive and cooperation, full; no attempt was made to conceal problems. This is undeniably a sign of willingness to bring about change.

79. The mission also wishes to thank the many NGOs which made its task easier, particularly COPADEBA and Ciudad Alternativa, which have been doing untiring, serious and professional work on behalf of the poorest groups for many years. It also thanks neighbourhood organizations, communities, the inhabitants of poor neighbourhoods and workers' and Haitian women's organizations, which are engaged in a daily struggle for their dignity.

80. The representatives of the Committee found that the main actors in and observers of the Dominican situation, including opposition parties and independent social agencies, generally agree with the social policy established by the new Government.

81. These positive changes are reflected not only in policy statements, but also in the amendment of laws and regulations and, above all, the implementation of projects, programmes and public works of genuine importance to the community.

82. The Committee's rejection of the policy of large-scale forced evictions which characterized the previous regime is now official Dominican Government policy. The evictions have been suspended and work is being done to relocate many families living in slums.

83. The recommendations which the Committee made to the Dominican Government in 1990 and 1994 have been skilfully used by non-governmental organizations in the Dominican Republic to strengthen the protection of human rights and influence the formulation of an alternative policy, especially relating to housing for the population.

84. The current Government's housing policy differs from that of its predecessor in terms of ends and means. The characteristic of the previous policy was that it gave preference to major ornamental works, to the wishes of the moneyed classes and to housing projects as part of a centralized and authoritarian system. The new policy is designed to give priority to low-income groups and carry out housing projects in consultation with the communities concerned.

85. There are many national and local people's organizations fighting for their rights. They work together with the Government on specific projects, but keep a safe distance from its acts and omissions. They are particularly active in matters relating to housing and their contribution to the new housing policy is very important.

86. The majority of Dominican society is mestizo and there is no widespread problem of racial discrimination, with the exception of the discrimination, consisting of a mixture of racism, chauvinism and class consciousness, that influential sectors of the population advocate and practise against Haitian immigrants. Such discrimination affects black Dominicans who have Haitian backgrounds or customs regarded as being Haitian.

87. Nearly all Haitian immigrants work as sugar cane cutters and, more recently, in the building industry. No authority knows exactly how many Haitians there are, but estimates put their numbers at 500,000, of whom only

25,000 have documents. The main problems of these workers stem from their lack of legal identity, which makes them very vulnerable within the society.

88. The majority of children of Haitians born in Dominican territory do not have Dominican nationality because they are regarded as children of foreigners in transit, a category denied this right by the Constitution. These children are not given a birth certificate in hospitals or civil registry offices and thus inherit the same undocumented status as their parents.

89. Most of these workers and their families live in the bateyes, wretched villages which are stuck in the midst of sugar refineries, lack the most basic services and are not subject to any municipal regulations. The authorities recognize that there are practically no Dominican sugar cane cutters because of the appalling living conditions offered by this type of work. The action that some companies have taken for the benefit of their workers is obviously not enough to solve key problems in the bateyes.

90. The general anti-poverty policy cannot make any progress if the Government does not encourage far-reaching economic changes in order to improve the very unequal distribution of wealth that now exists. Earmarking public funds is an essential tool for raising the income and standard of living of the low-income population.

91. In the context of the Government's new housing policy, it is necessary and urgent to relocate all the families who were evicted by past Governments and who have been living in conditions of extreme poverty, indignity and despair for many years. This is the case in Los Alcarrizos, La Ciénaga, Los Guandules, Villa Juana, Guachupita and Cristo Rey. It is also necessary to issue title deeds to regularize the ownership of land by much of the population.

92. The Government's housing policy can move ahead in a coherent way only if the administrative sector dealing with these tasks is reorganized and modernized and if a government body with enough legal authority and political power is set up to eliminate unnecessary administrative units and coordinate the activities of all agencies involved in the construction of dwellings for the population. In this connection, the Committee recommends that a Housing Department should be established rapidly.

93. If eviction programmes are to be replaced by relocation programmes, the centralized and authoritarian system has to be replaced by an open, democratic and cooperative one. Every particular project then has to be approved and implemented in close cooperation with the representatives of the communities concerned as part of a decentralized process.

94. The Committee recommends that, in order to complete the work being done in La Ciénaga and Los Guandules and the repeal of Decree No. 358-91, the Government should fully withdraw the military from these two areas so that improvements can be made in these communities' living conditions.

95. In order to give full effect to the right to housing provided for in the Constitution, communities should be able to receive advance information on urban development plans likely to affect their rights.

96. The urban land register should be amended without delay as a first step towards the attribution of title deeds to the tens of thousands of occupiers who do not have them; this is also a matter of priority.

97. The authority and credibility of the Government in respect of housing for the population will increase if its programmes and activities are based on a better policy of communication that explains what action the persons concerned should take and what procedures they should follow in order to solve their housing problems.

98. The problem of immigrant workers of Haitian origin is very complex, but none of the possible analyses should rule out the human rights point of view, in which priority is assigned to the adoption of a government policy to regularize the registration of the children of immigrant workers and their families.

99. The immigration authorities must cease to interpret article 11 of the Constitution to mean that immigrants should have the status of foreigners in transit for the obvious purpose of denying their children the right to Dominican nationality.

100. Provisions of the 1996 draft Migration Act which appear to violate economic, social and cultural rights of immigrants and their families and, in particular, article 6, which "regards foreigners admitted in the non-resident migrant category and foreigners who enter and stay in the country illegally as being in transit", should be deleted.

101. In order to reduce the number of arbitrary acts and abuses of the rights of immigrants committed by some officials, the amendments to the Migration Act should restrict, not increase, the discretionary powers of the immigration authorities.

102. It is recognized that sugar companies have introduced some services in the bateyes to improve the difficult living conditions of the workers. Nonetheless, the problem cannot be dealt with in any serious way until the legal status of the bateyes and their relationship with municipalities and companies are defined in realistic terms.

103. The Committee would like the Government of the Dominican Republic to keep it informed of the action taken on the above recommendations within the context of the third periodic report due on 30 June 1999.

ANNEXES

Annex I

PROGRAMME OF VISITS OF THE MISSION

Programme of the assistance mission to the Dominican Republic of the Committee on Economic, Social and Cultural Rights

19-27 September 1997

THURSDAY, 18 SEPTEMBER 7 p.m.	Arrival in Santo Domingo Meeting of the members of the mission
FRIDAY, 19 SEPTEMBER 9.30 a.m.	Meeting with Dr. Eduardo Latorre, Secretary of State for Foreign Affairs (Ministry)
10.30 a.m.	Meeting with the representatives of the Office of the Secretary of State for Foreign Affairs: human rights, international organizations
2.30 p.m.	Meeting with the United Nations Resident Representative in the Dominican Republic
3 p.m.	Meeting with the representatives of various United Nations bodies in the Dominican Republic (UNDP, FAO, WFP, UNICEF, UNFPA, UNAIDS, UNHCR and IOM)
SATURDAY, 20 SEPTEMBER 10 a.m.	Meeting with representatives of non-governmental organizations; topics: forced evictions, situation of women and children - Women's Coordinating Body (Centro Bono, Josefa Brea 65, Mejoramiento Social, Cuidad Alternativa and COPADEBA)
3 p.m.	Meeting with Church officials (Centro Bono, Josefa Brea 65, Mejoramiento Social, Ciudad Alternativa and COPADEBA)
4 p.m.	Visit to Los Alcarrizos (Ciudad Alternativa and COPADEBA)
SUNDAY, 21 SEPTEMBER 10 a.m.	Meeting with representatives of non-governmental organizations; topics: living and working conditions in the bateyes, situation of Haitian workers (Centro Bono, Josefa Brea 65, Mejoramiento Social, Ciudad Alternativa, CEDAIL, COPADEBA, Jesuit Refugee Service)

MONDAY, 22 SEPTEMBER 9.30 a.m.-10.15 a.m.	Meeting with J aquin Geronomo, Director of the National Housing Institute (INVI)
10.30 a.m.-11.15 a.m.	Meeting with Mercedes Zabater de Macarrulla, President, National Urban Affairs Council (CONAU); Euclides Sanchez, Director of the Government Works Monitoring Office
11.30 a.m.-12.15 p.m.	Meeting with Eduardo Selman, Technical Secretary, Office of the President of the Republic
12.40 p.m.-1.20 p.m.	Meeting with the Under-Secretary of State for Public Health and Social Welfare
3 p.m.	Meeting with Dr. Gladys Gutierrez, Director-General for the Advancement of Women
4 p.m.	Meeting with Ligia Amada Melo de Cardona, Secretary of State for Education and Culture
5.30 p.m.	Meeting with Ciudad Alternativa and COPADEBA (COPADEBA General Office)
TUESDAY, 23 SEPTEMBER 9 a.m.-9.45 a.m.	Meeting with Dr. Rafael Alburquerque, Secretary of State for Labour
10 a.m.	Meeting with Ignacio Rodríguez Chiapini, Director-General of the National Sugar Council, and Ambassador Wenceslao Guerrero, Head of the Ministry Department of Haitian Affairs
11.15 a.m.	Meeting with Danilo Díaz Vizcaino, Director-General for Migration, and Ambassador Wenceslao Guerrero, Head of the Ministry Department of Haitian Affairs
3 p.m.	Meeting with Dr. Amable Aristi Castro, President of the Senate
4 p.m.	Meeting with representatives of trade unions: Confederación Trabajadores Unitaria (CTU); Federación de Trabajadores Azucareros y Afines; and Sindicato de Picadores de Cana (SIPICAIBA) (CTU Office, Calle Tunti Caceres, corner Alonso de Espinosa; Ciudad Alternativa and COPADEBA)

WEDNESDAY, 24 SEPTEMBER 9 a.m.	On-site visits: La Ciénaga, Virgen del Carmen School; and CIGUA/CODECIGUA Plan meeting (Ciudad Alternativa, COPADEBA and CODECIGUA)
3 p.m.	On-site visits Villa Juana, Guachupita and Cristo Rey (Ciudad Alternativa and COPADEBA)
6 p.m.	Meeting with popular organizations and representatives of sectors affected by forced evictions (Ciudad Alternativa: Politecnico Santa Ana, Barney Morgan N.1, Gualey; Ciudad Alternativa and COPADEBA)
THURSDAY, 25 SEPTEMBER 7 a.m.	On-site visit to La Cuchilla batey (central Barahona)
	Meeting with representatives of civil society (Ciudad Alternativa, COPADEBA, LEMBA Group, Radio Enriquillo, CEAJURI, CEDAIL (Barahona branch), Puente Centre)
6 p.m.	Return to Santo Domingo
6.30 p.m.	Reception at the Ministry
FRIDAY, 26 SEPTEMBER 10 a.m.	Meeting with Henry Carrido, Director-General of National Property
1 p.m.	Meeting with Dr.Leonel Fernandez Reyna, Constitutional President of the Dominican Republic
3 p.m.	Meeting with non-governmental organizations and academic and other institutions: Ciudad Alternativa; Centro Dominicano de Asesoria e Investigaciones Legales; Comite para la Defensa de los Derechos Barriales; Movimiento de Mujeres Dominico-Haitianas; and Centro de Orientación de Investigación Integral (COIN)
	Meeting with Ciudad Alternativa
5 p.m.	Press round
7 p.m.	Meeting of the members of the mission: report on the mission

SATURDAY, 27 SEPTEMBER 8 a.m.	Meeting of the members of the mission: report on the mission Meeting with non-governmental organizations Departure from the Dominican Republic

Annex II

COMMITTEE'S DECISIONS AND CONCLUDING OBSERVATIONS: 1991-1996

(Extract from the Committee's report, E/1991/23)

Concluding observations

246. In concluding consideration of the initial report of the Dominican Republic, the Committee noted with satisfaction that the Government of that country was prepared to establish a dialogue. The report submitted by the State party, however, seemed to the Committee to be too juridical and lacking in information on the practical and concrete implementation of the Covenant, on case law and on statistical data relating to the various rights recognized by articles 6 to 15 of the Covenant. The information concerning the relevant articles of the Constitution or the texts of various laws and regulations appearing in the report, had inadequately developed some articles of the Covenant, such as articles 9 and 11 or had not developed them at all in the report, such as article 15.

247. Moreover, although a certain amount of information had been provided in response to the issues provided in writing for the delegation of the Dominican Republic by the Committee's pre-sessional working group, relating in particular to the minimum wage, the length of the working day, retirement, child labour, illiteracy or education, many other issues had not been broached. For instance, in addition to the issues related to article 15 of the Covenant which had not been developed, the information provided in respect of social welfare, trade union organizations, the right to strike, the benefits provided for pregnant women, abortion, the right to housing and to health, had been considered to be insufficient.

248. Further, following the additional questions asked and comments made orally by the members of the Committee concerning the actual implementation of the Covenant, the Government of the Dominican Republic had transmitted a written statement to the Committee in which it asked for an additional period of time in which to reply.

249. Members of the Committee stated their deep concern at the situation of Haitian workers in the Dominican Republic and wished to obtain all relevant information on the role of the CEA in the recruitment of these workers, on the condition of Haitian workers including their freedom of movement, their wage and their working conditions and any measures taken by the Government following the report established by the Committee appointed by the President of the Dominican Republic to end forced labour. The information that had reached members of the Committee concerning the massive expulsion of nearly 15,000 families in the course of the last five years, the deplorable conditions in which the families had had to live, and the conditions in which the expulsions had taken place were deemed sufficiently serious for it to be considered that the guarantees in article 11 of the Covenant had not been respected.

250. The Committee consequently requested an additional report on those issues which called for more detailed development as well as answers to those questions which had been kept pending.

(Extract from the Committee's report, E/1995/22)

A. Introduction

309. At its 43rd and 44th meetings on 30 November 1994, the Committee examined matters arising out of the requests to the Government of the Dominican Republic for the provision of additional information, in particular relating to the right to adequate housing. The Committee has devoted ongoing attention to these issues since its fifth session (1990), with particular concern about alleged instances of large-scale forced evictions. At its tenth session the Committee urged the Government to take all appropriate measures in the meantime to ensure full respect for all economic, social and cultural rights, in particular in relation to the right to housing. At its 55th meeting on 8 December 1994, the Committee adopted the following concluding observations.

310. The Committee appreciates the appearance before it of two representatives, including an expert from the capital, and the opportunity to engage in a constructive dialogue with the Government on the right to adequate housing.

B. Positive aspects

311. The Committee welcomes the frank and open manner in which the Government responded to questions put to it and its willingness to acknowledge many of the difficulties which have impeded the implementation of the Covenant. In particular, the Committee welcomes the information received on the extent of the practice of forced evictions, the impact of fraud and other unfair practices in the allocation of public housing units and information concerning positive changes in Government policy.

312. The Committee notes the housing rights provisions in article 8 (15) (b) of the Constitution and several recent amendments to the relevant provisions of the Constitution. It notes that these provisions could, if reflected fully in law and practice, assist in promoting enhanced accountability and the development of judicial procedures which would provide an effective means of recourse for those whose right to housing is threatened.

313. The Committee welcomes those aspects of decrees 76-94 of 29 March 1994 and 155-94 of 11 May 1994 which commit the State to providing the broadest possible protection to the stability of the Dominican family and to giving property titles to all families who, up to 11 May 1994, have built homes on lands declared to be public property. The Committee also welcomes the decision by the Government to create a green belt around the city of Santo Domingo, and its commitment to construct 12,500 new housing units for low-income communities.

314. The Committee also welcomes the Government's statement of its intention to amend its legislation and policy to bring them into line with the

obligations arising out of the Covenant, to take measures with regard to forced evictions and to adapt relocation policies to ensure that such measures are carried out only as a last resort and that when they do occur the principle of a "house for a house" will be respected. The indication by the Government that urgent consideration will be given to suspending decrees 358-91 and 359-91 is particularly welcomed by the Committee.

315. The Committee welcomes the undertaking by the Government to submit additional information on all questions which were unanswered and to give positive consideration to the Committee's request to send one or two of its members to the country with a view to assisting the Government in implementing the rights found in the Covenant.

C. Principal subjects of concern

316. The Committee reiterates the importance it attaches to the right to housing and reaffirms its long-standing view that forced evictions are prima facie incompatible with the requirements of the Covenant and can only be justified in truly exceptional circumstances. The situation regarding forced evictions within the country continues to be viewed with concern by the Committee.

317. The Committee has received, over the course of several years, detailed and precise information relating to the housing situation in the Dominican Republic. This information has systematically been provided to the Government with a request for comments as to its accuracy. That information has indicated, inter alia, that:

(a) Thirty thousand or more families residing in the Northern Zone (Zona Norte) of the capital are threatened with forced eviction under decrees 358-91, 359-91 and 76-94. Areas particularly affected are La Cienaga-los Guandules, Gualey, Barranca de Guachupita, Simon Bolivar, La Canada de Simon Bolivar, Barrio 27 de Febrero, La Zurza, Capotillo, Las Canitas, Ens Espaillat, Maquiteria, Simonico, Cristo Rey, Guaricano, Borojol, 24 de Abril and parts of the Colonial Zone;

(b) Thousands of families have been evicted from the site of the "Faro a Colon" in the city without regard to their rights;

(c) Forced evictions have also occurred in cities such as Santiago, San Juan de la Maguana, Boca Chica and El Seybo, as well as in rural areas such as Los Haitices and Jiguey-Aguacate;

(d) Of the many families relocated to sites on the periphery of Santo Domingo only a small proportion received relocation allowances while some 3,000 families received neither relocation allowances nor adequate compensation for their eviction;

(e) The current living conditions faced by those relocated as a result of Hurricane David in 1979, in particular the 106 families residing under the Duarte Bridge (Puente Duarte) and the 658 families residing in los Barrancones de Alcarrizo, are grossly inadequate.

318. While the Government presented the Committee with information as to the achievements and shortcomings of its various policies in relation to housing, the Committee did not receive any information which would lead it to conclude that these problems do not exist or have been adequately addressed.

319. It therefore expresses its serious concern about the nature and magnitude of the problems relating to forced evictions and calls upon the Government of the Dominican Republic to take urgent measures to promote full respect for the right to adequate housing. In this regard, the Committee notes that whenever an inhabited dwelling is either demolished or its inhabitants evicted, the Government is under an obligation to ensure that adequate alternative housing is provided. In this context "adequacy" requires relocation within a reasonable distance from the original site, and in a setting which has access to essential services such as water, electricity, drainage and garbage removal. Similarly, persons who are housed in conditions which threaten their life and health should, to the maximum of available resources, be adequately rehoused.

320. The Committee is concerned about the ease with which the Government is prepared to authorize or undertake the demolition of homes, even when such dwellings are capable of being repaired or renovated. It appears that insufficient attention is paid in this context to extensive alternative community development and urban improvement plans developed by popular organizations.

321. The Committee was informed that the national housing unit deficit currently stands at some 500,000 units. If correct, this level would be exceptionally high given the relatively small population of the country. While the Committee commends the Government for the construction of roughly 4,500 housing units annually, this quantity is clearly insufficient. Moreover, the Committee was also informed that less than 17 per cent of Government-built housing units are provided to the poorest sectors of society.

322. On the basis of the detailed information available to it, the Committee also wishes to emphasize its concern about the "militarization" of La Cienaga-Los Guandules, the long-standing prohibition on improving or upgrading existing dwellings for the more than 60,000 residents of the area, and the inadequate and heavily polluted living conditions. The situation is especially problematic given that these communities were originally established as relocation areas for evicted persons in the 1950s. Since that time the Government has failed to confer legal security of tenure on residents or to provide basic civic services.

323. The Committee also notes that, based on available information, the situation of the 200,000 persons residing in rooming houses in Santo Domingo would often appear to be below any acceptable standards.

324. The Committee is concerned about the effects Presidential decrees can and do have upon the enjoyment of the rights recognized in the Covenant. It wishes to emphasize in this regard the importance of establishing judicial remedies which can be invoked, including in relation to Presidential decrees, in order to seek redress for housing rights violations. The Committee is not aware of any housing rights matters that have been considered by the

Supreme Court in relation to article 8 (15) (b) of the Constitution. Insofar as this might be taken to indicate that the provision has not so far been subject to judicial review, the Committee expresses the hope that greater reliance will be placed upon it in future as a means by which to defend the right to adequate housing.

D. Suggestions and recommendations

325. The Committee draws the attention of the Government to the full text of its General Comment No. 4 (1991) on the right to adequate housing and urges the Government to ensure that policy, legislation and practice take due account of that General Comment.

326. The Government should ensure that forced evictions are not carried out except in truly exceptional circumstances, following consideration of all possible alternatives and in full respect for the rights of all persons affected. On the basis of the information available to it, the Committee has no reason to conclude that existing plans for forced eviction in Santo Domingo, to which its attention has been drawn, are necessitated by any such exceptional circumstances.

327. All persons residing in extremely precarious conditions, such as those residing under bridges, on cliff sides, in homes dangerously close to rivers, ravine dwellers, residents of Barrancones and Puente Duarte, and the more than 3,000 families evicted between 1986-1994 who have yet to receive relocation sites (from Villa Juana, Villa Consuelo, Los Frailes, San Carlos, Guachupita, La Fuente, Zona Colonial, Maquiteria, Cristo Rey, La Cuarenta, Los Ríos and La Zurza), should all be ensured, in a rapid manner, the provision of adequate housing in full conformity with the provisions of the Covenant.

328. The Government should confer security of tenure on all dwellers lacking such protection at present, with particular reference to areas threatened with forced eviction.

329. The Committee notes that Presidential Decrees 358-91 and 359-91 are formulated in a manner inconsistent with the provisions of the Covenant and urges the Government to consider the repeal of both of these decrees within the shortest possible time. The Government should seek to remove the military presence in La Cienaga-Los Guandules and allow residents the right to improve their homes and the community at large. The Government should also give careful consideration to implementing alternative development plans for the area, taking full account of plans developed by non-governmental and community-based organizations.

330. The Committee suggests that in order to promote the objectives referred to in these observations the Government might consider the establishment of commissions, composed of representatives of all relevant sectors of society, in particular civil society, to oversee the implementation of Decrees 76-94 and 155-94.

331. The Committee requests the Government to apply existing housing rights provisions in the Constitution and for that purpose to take measures to facilitate and promote their application. Such measures could include:

(a) adoption of comprehensive housing rights legislation; (b) legal recognition of the right of affected communities to information concerning any governmental plans actually or potentially affecting their rights; (c) adoption of urban reform legislation which recognizes the contribution of civil society in implementing the Covenant and addresses questions of security of tenure, regularization of land-ownership arrangements, etc.

332. In order to achieve progressively the right to housing, the Government is requested to undertake, to the maximum of available resources, the provision of basic services (water, electricity, drainage, sanitation, refuse disposal, etc.) to dwellings and to ensure that public housing is provided to those groups of society with the greatest need. It should also seek to ensure that such measures are undertaken with full respect for the law.

333. In order to overcome the existing problems recognized by the Government in its dialogue with the Committee, the Government is urged to give consideration to initiatives designed to promote the participation of those affected in the design and implementation of housing policies. Such initiatives could include: (a) a formal commitment to facilitating popular participation in the urban development process; (b) legal recognition of community-based organizations; (c) the establishment of a system of community housing finance designed to open more lines of credit for poorer social sectors; (d) enhancing the role of municipal authorities in the housing sector; (e) improving coordination between the various governmental institutions responsible for housing and considering the creation of a single governmental housing agency.

334. The Committee urges the Government to revise the 1994 Master Plan of Santo Domingo to bring it into line with the obligations arising under the Covenant and to involve civil society in the revision and implementation of the Plan. Forced evictions should not be envisaged except in full compliance with the conditions noted above.

335. Subsequent to the appearance before the Committee of two representatives of the Government of the Dominican Republic, the Committee received information that, based on a recommendation by the Special Committee on Urban Affairs, Decree 371-94 was promulgated on 1 December 1994, ordering the immediate eviction of two sectors situated on the banks of the Isabela River. In the implementation of this decree the Committee requests the Government to ensure its compliance with the terms of the Covenant and to take full account of the recommendations contained in these concluding observations. The Committee has also learnt that the problem of evictions is attracting attention in the country's press and is aware of the polarization which the issue is currently causing in Dominican society. The Committee feels that it could make a more comprehensive assessment of the problem of evictions if the Government of the Dominican Republic were to invite one or two Committee members to make an in situ visit. The Committee therefore renews its request to the Government to send a two-person mission to the country and recalls that this request has already been endorsed clearly on two occasions by the Economic and Social Council.

Preliminary concluding observations of the Committee on Economic, Social and Cultural Rights
(1996)

1. The Committee considered the second periodic report of the Dominican Republic on articles 1 to 15 of the Covenant (E/1990/6/Add.7) at its 29th and 30th meetings, held on 19 November 1996, and adopted, at its 50th meeting, held on 3 December 1996, the following concluding observations.

A. Introduction

2. The Committee expresses its appreciation to the State party for its report and welcomes the appearance before it of the Permanent Representative of the Dominican Republic to the United Nations Office at Geneva. The Committee, however, notes with regret that the Government of the State party neither provided written replies to the Committee's list of issues (E/C.12/1995/LQ.7) made available to it in January 1996, nor sent an expert delegation to present its report as it had promised to do at the Committee's fourteenth session in May 1996, when requesting the postponement of the consideration of its report to the fifteenth session. Consequently, the Committee was obliged, in accordance with its method of work, to consider the second periodic report of the Dominican Republic without the benefit of a dialogue or the participation of an expert delegation. Nevertheless, the Committee notes the statement by the Permanent Representative of the Dominican Republic to the United Nations Office in Geneva that, although she was unable to take an active part in the dialogue with the Committee, she would communicate to her Government the principal additional subjects of concern identified by the Committee in the course of its deliberations.

3. The Committee notes with dissatisfaction that the report submitted by the Government of the State party was, like the initial report, not prepared in accordance with its revised general guidelines (E/C.12/1991/1). It also notes that information contained therein is incomplete and of a purely legal nature, without any reference to the situation concerning the practical realization of the rights set forth in the Covenant, and that the suggestions and recommendations formulated by the Committee in its concluding observations and adopted at its eleventh session in November 1994 have not been addressed in the present report. It further notes, with regret, the lack of information of a general character which the State party was supposed to have provided in a "core document", which it has similarly failed to submit.

4. The Committee feels that the failure of the State party to respond to the list of issues and to send a delegation with competence to engage in a dialogue with it during this fifteenth session shows, on the part of the State party, a consistent pattern of disregard for its obligations under the Covenant and an unwillingness to cooperate with the Committee.

5. In this connection, the Committee wishes to express its gratitude to the non-governmental organizations, both national ("Ciudad Alternativa" and COPADEBA) and international (Habitat International Coalition and International Women's Rights Action Watch) for the detailed and carefully documented information they have made available to it in relation to the Dominican Republic's report. In particular, the Committee draws the attention

of the State party to the document "The Dominican Republic: An independent report submitted to the UN Committee on Economic, Social and Cultural Rights by the International Women's Rights Action Watch".

B. Positive aspects

6. The Committee notes with satisfaction, from the information available to it from other sources, that the Government has repealed Decree No. 358-91, the application of which had previously negatively affected the realization of the right to adequate housing, and that it has provided a solution to the cases of eviction pronounced under previous Governments.

7. The Committee further appreciates the information that the Government has undertaken a thorough review of the public health sector and is preparing a reform of the Health Code.

8. The Committee further appreciates the attempts being made in the Chamber of Deputies to recognize domestic violence as a public health issue and thus to discourage gender violence as a matter of public policy.

C. Factors and difficulties impeding the implementation of the Covenant

9. The Committee notes that the slow evolution towards democracy and the rule of law in the Dominican Republic has inhibited the strengthening of democratic institutions, the modernization of the machinery of government and, consequently, the effective implementation of the Covenant.

10. The Committee also observes that economic difficulties characterized by, inter alia, an increasing number of impoverished people (60 to 65 per cent of the population live below the poverty line) and the landless rural population, the high level of unemployment, especially in the cities, and the persistent large-scale emigration of skilled and semi-skilled workers out of the country have had a constraining influence on the implementation of the Covenant in the country.

D. Principal subjects of concern

11. In relation to article 2 of the Covenant, the Committee observes that the Dominican Republic has done very little to promote public awareness of the rights set forth in the Covenant. The Committee has been informed that abuses by the police and other security services persist.

12. The Committee notes with regret that, although in law United Nations human rights treaties become part of Dominican law upon ratification, in practice the judiciary does not apply these international treaties.

13. The Committee is particularly concerned about the exploitation of Haitians, and their unacceptable living conditions in the bateyes. In this connection, it has no reason not to accept the veracity of various reports which emphasize the dire predicament of workers in the bateyes, especially women workers whose presence there is not administratively recognized and who therefore become vulnerable to extreme exploitation (their wages are 50 per cent lower than men's) and are often deprived of their rights and the

most basic health and social services. Both men and women in the bateyes, as well as Haitian workers in other sectors of the economy, live in perpetual insecurity and they constitute the principal national group in the Dominican Republic who are subject to deportation in inhuman conditions, often at the whim of employers who take advantage of the State's inaction to exploit the vulnerability of this group.

14. The Committee takes note of information from various sources concerning the arbitrary confiscation of identity cards called "cedulas" and the illegal deportation of persons of Haitian origin born in the Dominican Republic during the 1995-1996 presidential campaign. This information stresses the insecurity prevailing with regard to nationality of Dominican citizens of Haitian origin. It thus appears necessary to adopt clear legislation on nationality, which would procure legal security to persons of Haitian origin born in the Dominican Republic and to their children; which would require the authorities to register births without discrimination; and which would allow Haitians to obtain Dominican nationality through naturalization under the same conditions as other foreigners.

15. The Committee is informed that Black Dominicans are often subject to the same arbitrary police and administrative discrimination as temporary Haitian workers. Groups representing Blacks in the Dominican Republic also claim that the State violates their cultural rights by allowing the police and local communities to suppress Afro-American or African-identified cultural practices. They also assert that discrimination of this kind is encouraged at the public schools and by employers in both the public and private sectors.

16. The Committee also notes with concern that, according to information received from various sources, there is no mechanism for lodging complaints against the arbitrariness or corruption of some judges and that there is no appellate procedure for challenging the discriminatory application of a law, an executive decree or a decree of the court.

17. The Committee notes with great concern that State expenditures on education and training as a proportion of public expenditure are less than half their average in Latin America.

18. The Committee notes with concern that large-scale emigration of Dominicans has been going on for many years and has had and will continue to have a harmful effect on the Dominican economy, since a great part of the emigrants are skilled workers. The State party will have to take measures in the educational and socio-economic fields to stem the out-flow of skilled workers.

19. The Committee notes with alarm that, 30 years after the first industrial park was established in a free trade zone in the Dominican Republic, unacceptable working conditions and abuses against workers' rights under articles 6, 7 and 8 of the Covenant continue.

20. The Committee notes with concern the inhuman and archaic prison system, whereby members of the family of an accused person who has run away may be imprisoned without trial in his place as a guarantee for the absentee-accused

until he hands himself over to the prison authorities; and whereby prisoners are supposed to buy their own meals at weekends, when the prison authorities stop providing any meals to the prisoners.

21. The Committee is concerned to note the persistent rise of "sex tourism" in resort areas, and the spread of AIDS, which is one of the country's greatest health problems.

22. The Committee is particularly concerned that the enjoyment by women of economic, social and cultural rights is undermined, inter alia by: a traditional and persistent male dominated society; the failure to ensure that single women heads of household benefit from the agrarian reform or the Government's housing programme; the absence of any administrative mechanism that allows women to file complaints in cases of discrimination by the Dominican Agrarian Institute; the failure of the Government to protect women workers from discrimination or arbitrary dismissal related to pregnancy, including failure to discourage employers from the practice of pregnancy testing; and failure to develop and promote family planning services. The Committee is also concerned that, despite the very high rate of hospital births in the Dominican Republic, the rate of maternal mortality is unacceptably high; common law marriages are not legally recognized, although 60 per cent of all marriages are of this nature and, consequently, in cases of separation, abandonment or the death of the male bread-earner of the family a woman frequently loses everything and finds it difficult to acquire a cedula or collateral, without which she cannot obtain agricultural credit, housing or employment.

23. The Committee wishes to voice its serious concern about the continuing problem of violence against women and the insufficient attention paid to the problem by governmental institutions.

24. The Committee expresses its concern about the issue of limited access to safe drinking water for the rural population and those living in deprived urban areas, the higher incidence of infant mortality in certain socio-economic groups, the deplorable situation of persons with disabilities, the prevalence of endemic diseases, the problem of the inadequacy of social welfare and security, the persisting housing shortage and the inadequacy of access to health care.

25. The Committee also calls attention to the various concerns it has expressed to the State party since its fifth session (1990) in relation to the continuous violation of the right to adequate housing and regrets the fact that it has received an entirely unsatisfactory and inadequate response from the State party in this respect. The Committee reminds the State party of the significance it attaches to the right to adequate housing and thus to the adoption of measures by the State party to recognize, respect, protect and fulfil that right.

E. Suggestions and recommendations

26. The Committee invites the State party to confirm publicly its commitment to implement its binding human rights treaty obligations. It strongly calls upon the Government of the State party to honour its obligations under the

International Covenant on Economic, Social and Cultural Rights, particularly through maintaining the proper direct and constructive dialogue with the Committee called for in the Covenant. The Committee proposes to adopt finally its concluding observations in relation to the State party at its sixteenth session. For that reason the Committee decides that these concluding observations will be considered "preliminary", pending further consideration of the report based on a dialogue with representatives of the State party at its sixteenth session.

27. In view of the consistent failure of the State party to meet its reporting obligations under the Covenant and to respond to successive requests for information made by the Committee over a number of years, the Committee urges the State party to attach the utmost importance to responding to the matters raised in the present concluding observations.

28. The Committee further recommends that the State party provide it with written replies to its concluding observations adopted at its eleventh session (E/C.12/1994/15), in particular with regard to its request that the State party invite representatives of the Committee to visit the Dominican Republic; the written list of issues drawn up with respect to the third periodic report (E/C.12/1995/LQ.7); information contained in the document "The Dominican Republic: An independent report submitted to the UN Committee on Economic, Social and Cultural Rights by the International Women's Rights Action Watch".

29. The Committee requests the State party to submit the information referred to in the preceding paragraph by 15 February 1997 in order to allow the Committee to consider that information at its sixteenth session, to be held from 28 April to 16 May 1997.

30. The Committee strongly recommends that the specific information requested above be presented to the Committee at its sixteenth session by an expert delegation.

31. The Committee encourages the State party to widely disseminate the concluding observations adopted by the Committee following the consideration of the State party's second periodic report.

Annex III

Decisions adopted by the Economic and Social Council in 1992 and 1993 with respect to the Dominican Republic

1992/261. Technical assistance in implementing the International Covenant on Economic, Social and Cultural Rights

At its 32nd plenary meeting, on 20 July 1992, the Economic and Social Council took note of the decision of the Committee on Economic, Social and Cultural Rights to inform the Government of the Dominican Republic of the offer of the Committee, in pursuance of article 23 of the International Covenant on Economic, Social and Cultural Rights, to send one or two of its members to advise the Government in relation to efforts to promote full compliance with the Covenant in the case of the large-scale evictions referred to in the Committee's reports. The Council approved the Committee's initiative, subject to the acceptance of the Committee's offer by the State party concerned.

1993/295. Technical assistance to the Dominican Republic in implementing the International Covenant on Economic, Social and Cultural Rights

At its 44th plenary meeting, on 28 July 1993, the Council renewed its endorsement of the decision of the Committee on Economic, Social and Cultural Rights 226/ to inform the Government of the Dominican Republic of its offer in accordance with the procedures for follow-up action adopted at the Committee's seventh session 224/ and in pursuance of article 23 of the International Covenant on Economic, Social and Cultural Rights 19/ to send one or two of its members to pursue its dialogue with the Government in relation to the matters identified to promote full compliance with the Covenant in the case of the large-scale evictions referred to in the Committee's reports. The Council approved the Committee's action, subject to the acceptance of the Committee's offer by the State party concerned.